
Landless and “Childless” in the Eastern Democratic Republic of Congo: High School Students’ Perceptions of Gendered Constitutional Rights

Maroyi Mulumeoderhwa

This study draws on a qualitative study to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women’s rights to inherit property and to take the custody of children in the event of divorce. The results show that male participants view their sisters as temporary residents in the family, and believe her inheritance may benefit her husband and her children who do not belong to her father’s clan. Therefore, they strongly contest her inheritance right. However, a minority of boys were receptive to certain notions of women’s rights and quite ambivalent about the gender status quo. Female participants, on the other hand, perceived the customary laws and patrilineal attitudes as a hindrance for women and girls to claim their inheritance’s rights although the Congolese Family Code grants them such a right. Although the law grants both husband and wife this right, socio-cultural norms and customary law render women victims of violence. Both male and female participants also mentioned that in case of divorce, women are denied child custody.

Land is one of the main sources of social and political power in the Democratic Republic of the Congo (DRC), and therefore lies at the center of gender inequalities (Women for Women International 2014). In fact, the article 14 of the constitution of the DRC recommends that public authorities reinforce the elimination of all forms of discrimination against women, and ensure the protection and promotion of women’s rights. However, the constitution implicitly refers to the issue of inheritance and child custody. On the contrary, the constitution generally refers to women’s rights notably in relation to civil, political, economic, social, and cultural areas. It ensures the full recognition of the potential of women

The author would like to thank participants for enabling valuable insights into focus group discussions and interviews. Many thanks to Professors Andre Keet, Geoff Harris and the journal’s anonymous reviewers for their comments on this article.

Please direct all correspondence to Maroyi Mulumeoderhwa, Institute for Reconciliation and Social Justice, University of the Free State, PO Box 339, Bloemfontein 9300, Republic of South Africa; e-mail: willmaroyi@gmail.com, mulumeoderhwam@ufs.ac.za.

Law & Society Review, Volume 52, Number 4 (2018)

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and their inclusive participation in the development of the nation.¹ In fact, the inheritance and child custody rights are fully addressed in the *Code de la famille* (Family Code). For example, the article 758 of the *Code de la famille* explicitly stipulates that the surviving spouse, father and mother, brothers and sisters or consanguineous or uterine form the second category of heirs of the succession (Code de la Famille 1999). But, there are still major doubts about the practicality of these laws as women are structurally denied the rights to control or inherit land and property. They are also denied the child custody right in such patrilineal cultures (Benschop 2004). In fact, the child custody remains a challenge in the DRC although the article 457 of the *Code de la Famille* grants, in case of divorce, the child custody to one of the spouses or to a third person of their choice. Yet, male participants, in this study, have championed the belief of men/husband's solely rights to the child custody and inheritance. The inheritance and child custody right are strongly connected, in both cases women's rights are often contested although they are legal and gendered Constitutional Rights. In fact, the aim of this article is to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women's rights to inherit property and to take the custody of children in the event of divorce. The article will begin by explaining what the country's constitution and the *Code de la Famille* prescribe about these two issues and will then report what typically happens in practice. The second half of the article presents the attitudes of a group of high school students, and considers whether these suggest possible changes in practice. Merry (2006) argues that, inevitably, diminishing violence against women requires cultural transformation.

Women's Rights and Land Legal Limitations

Congolese women, without taking into account their ethnic groups, are victims of customary and legal land systems. On the one hand, the land clauses of customary law make it difficult for them to access land, particularly with regard to inheritance and succession. On the other hand, even though the *Code Foncier* (estate code) which establishes land tenure in the Congo does implicitly exclude women from land ownership. The contradictions that exist in land tenure, combined with the lack of harmonization between different legal texts regarding women's rights and the persistence of discriminatory cultural customs and practices,

¹ The Constitution of the Democratic Republic of the Congo (2005) file:///E:/DRC%20-%20Congo%20Constitution.pdf.

make it hard to secure women’s land rights particularly for the poorest rural women (Benninger-Budel 2000; Women for Women International 2014). In fact, customary land practices systematically discriminate against women, and deny them right to inherit land and property. Despite recent efforts by the Congolese government to tackle this inequality, women are still denied the rights to access and control land as awareness of rights and government’s implementation power remain low (Syn and Paluku 2015). Although there have been new law-making initiatives to lessen the inequality, the gap between the law and implementation remains large (Syn and Paluku 2015; United Nations Economic Commission for Africa (USAID) 2006).

Additionally, the DRC in theory has a legal framework consisting of national, regional, and international laws to protect and guarantee the rights of women and their access to land. With respect to international and regional instruments, in 1986, the country ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and adopted the Beijing Platform (Women for Women International 2014). These contain the idea that women should own property, be able to divorce, inherit money and property, earn income, and express their views. The women’s rights package opts for gender equality rather than gender complementarity. In other words, it emphasizes the improvement of women’s position by making them the same as men, at least in opportunity. The global women’s rights package is verbalized in a collection of national and international laws and practices such as CEDAW, international women’s conferences, and the theoretical work of several Women’s and Feminist Education Programs that have been reproduced at universities over the past 30 years (Grewal 1998, 2008; Levitt and Engle 2011). More recently, organizations such as the African Union have also sought to reinforce their commitment to women’s rights, and scholars in Africa and elsewhere have focused on ways in which local women’s rights movements can support and transform human rights (Hodgson 2002). While the African Union’s African Charter does mandate that member states watch over women’s rights, African women’s rights activists maintained that the emphasis on community rights gave legitimacy to cultural practices that discriminated against women (Wyrod 2008). Yet, despite the propagation of human rights ideologies and structures across Africa, actual implementation and securing of rights for all, especially for women, remains an ongoing challenge. The international human rights community tends to see these challenges as deriving from within indigenous cultures (Scully 2011). Merry argues that the “practice of human rights is encumbered by a colonialist understanding of culture that smuggles nineteenth-century ideas of lack of

development and savagery into the process, along with ideas of racial inferiority” (2006: 226). In addition, human rights tends to register this lack of development through gender: dominant human rights frames have tended to see gender practices in these so-called traditional settings as posing several ongoing challenges to the development of human rights (Scully 2011).

Indeed, despite the adoption of the principle of gender equality in the constitution, discriminatory provisions against women continue to exist in Congolese legislation, regarding their land rights and civil rights. Women face discrimination in accessing land and property. Contradictory provisions exist both within and between certain national legal texts. There is also a noticeable lack of harmonization between national instruments for women’s rights and those approved by the Congolese government on a regional and international level (Syn and Paluku 2015; Women for Women International 2014). In particular, the *Code de la Famille* contains a number of discriminatory provisions against women, which affect their rights to access land. The *Code de la Famille* is particularly important for women because it is a fundamental tool for controlling the private sphere of the family and the relations between its members, specifically, between the husband and wife. The Code is based on the fundamental principle according to which, when a woman marries, she is under the guardianship of her husband who is considered as the head of the family, that he must protect his wife and that the wife must obey him. Indeed, the wife must obtain the permission from her husband to buy land or property, to be a party to legal proceedings, or to open a bank account (Code de la Famille 1999). Many elements of the *Code de la Famille* have been replaced by new legislation (labor law, for instance) but revision of the *Code de la Famille* is still unscheduled, and the revision keeps describing the husband as the head of the family which has significant negative consequences on women (Davis et al. 2014).

Nevertheless, in matters of inheritance, the *Code de la Famille* grants the same rights to children of both genders and to those born in and out of wedlock or adopted. In fact, these provisions are limiting because they only apply to the children of married women. They do not apply to the children of single mothers or to children from polygamous marriages who do not have any protection. Both husband and wife can leave a will on how their property is to be divided among their heirs. The will can be either written or oral; but in its absence, the *Code de la Famille* provides rules on how property is to be shared, and identifies three categories of heirs: (1) legitimate children and those born both out of wedlock; (2) the surviving spouse, parents, and siblings of the deceased; and (3) both paternal and maternal aunts and uncles of

the surviving spouse. The *Code de la Famille* does not discriminate male and female heirs, so all qualifying persons in each category share the portion to which their category is entitled. The children in group 1 receive 75 percent of the inheritance, and the persons in group 2 share the remaining 25 percent (the persons in group 3 inherit if there are no qualifying persons from group 2 alive to receive that share). If there are no heirs, all property reverts to the state (Code de la Famille 1999).

In fact, the process of accessing land by inheritance also poses problem. Congolese women do not inherit land under customary law. There is even a proverb to this effect: “*women inherit wrapper clothing, men inherit fields.*” However, there are exceptions. In some communities, widows inherit the land belonging to their deceased husbands but they are formally forbidden by their family-in-law to sell the property. This means that, actually, they are not full owners of their husband’s property, as they cannot freely dispose of it. The joint estate system does not generally prevail in Congolese matrimonial systems. Under this system, women are entitled to inherit from their husbands in the event of death, provided that the marriage has been registered at the registry office. Many marriages are not officially recognized; one of the main reasons is the high cost of registration fees which many rural households cannot afford. Another reason is that, households are generally not aware of the law and the obligations governing marriages contracted under the joint estate system. The lack of knowledge has terrible consequences for women, particularly in the event of divorce, where they risk receiving no compensation (CEDAW 2011; Davis et al. 2014; Women for Women International 2014). Participants in a study conducted in South Kivu, Equateur, Bas Congo, and Kinshasa found that women are unable to claim their inheritance because they are unaware of their legal rights (Davis et al. 2014). In fact, difficulties and discrimination women face in owning property are enormous. Even when the law offers a minimum of protection for women’s precarious socio-economic status, this may be undermined by cultural practice. Inheritance, for example, is a crucial issue for widows. By law, women are entitled to inherit as long as the marriage has been legally registered, but customary law dictates that men will solely inherit. In some cases, widows are often evicted from the matrimonial home when their husbands die, and they are not even allowed to get their clothes (Davis et al. 2014). In terms of property and acquisition, women rarely have the financial resources required to buy land, and they may be interdicted to buy land under the terms of the *Code de la famille*, if applied. They also face challenges inheriting the land. They have the right to inherit land as long as they can prove their rights. In many cases, widows face challenges in claiming their inheritance (Davis et al. 2014;

Faray-Kele and Matundu 2010), especially when the marriage was not registered or in cases of polygamy; second wives have no rights (Davis et al. 2014). Despite this literature, little data exists on the implication denied inheritance and child custody has on women in the eastern DRC. Literature does not fully engage with women and girls' discrimination both as it is perceived by women and girls who suffer it. Yet, this information is important to help understand the contradictory legislation, cultural attitudes and norms concerning women's right for inheritance, and the child custody. The aim of this article is to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women's rights to inherit property and to take the custody of children in the event of divorce. This is the first study to examine the magnitude of discrimination that South Kivu women face in inheritance and child custody right. In the DRC, women's rights in general and, specifically, land rights are regulated by legal provisions and laws that are often contradictory (Davis et al. 2014; Syn and Paluku 2015).

Women's Problematic Land Inheritance in Patrilineal System

A study conducted in South Kivu and North Kivu finds that daughters are denied right to inherit their parents' land and property. Participants explained that girls will marry and inherit their husbands' property, although this is unlikely to happen as women do not inherit land from either their fathers or husbands. Rather, they possess only temporary use rights that can be nullified at the mercy or death of the men [husbands] in these households. In fact, customary land management systems still discriminate women, and prevent them access to land in three major ways: (1) they prevent women from owning land, (2) inheriting land, and (3) from taking decisions and discussing about issues around land use (Syn and Paluku 2015). Lastarria-Cornhiel (1997) maintains that one of the most important characteristics in inheritance systems and in how land is transferred from one generation to another in Africa is gender related. That is, whether the society is matrilineal or patrilineal. A patrilineal descent system is problematic because both lineage and property pass along the male line, generally from father to son, and rights to inherit land are also transferred from father to son. The majority of our participants are from the patrilineal descent system. In fact, this article focuses on young people's attitudes toward women's rights, and extends previous research on daughter' denial rights to inherit, and also examines the child custody right.

That is particularly true in the eastern Democratic Republic of Congo, where women still suffer discrimination in regard to access to land and ownership (Sen et al. 2007; Syn and Paluku 2015; Women for Women International 2014), although Congolese women comprise 53 percent of the DRC population (FAO, International Land Coalition (ILC), and International Fund for Agricultural Development (IFAD) 2004; MONUC 2010). UNECA (2012) actually indicates that in 1990 there were 398,400 (8.9 percent) female land owners. In fact, customary land practices consistently discriminate against women, and deny them the right to inherit land and property. In Bas Congo, for instance, a woman is not permitted to plant a tree in the land because this would indicate that she owns it [land]. Although families depend on crops women harvest from tiny pieces of land, women rarely own land (Davis et al. 2014). Added to this issue is over two decades of armed conflict in the country, which has caused more than 6 million deaths and massive waves of ongoing displacement, severely impacting women and children, many of whom are widows and orphans (Hoffman and Tomas 2018; Syn and Paluku 2015). Even where families are more supportive to daughters' inheritance, her rights are significantly limited in comparison to her brothers. Women in Mukwinja (Kalehe territory, South Kivu) who had been able to inherit land reported that their brothers first chose the best parts of land, and the leftover was allocated to sisters. Actually, the daughters inherited only use rights. In some instances, she could rent out her land, but in many others she could only cultivate it. In no case did the women have the right to sell the land without permission from the male head of the family; it also depended on family to decide whether she was allowed to transfer whatever rights she had to her children (Syn and Paluku 2015).

Studying Adolescents

Men and women, boys and girls may be victims of violence, but men perpetrate most violence. Although discrimination and oppression take different forms during different stages of life for girls, women, boys and men in the DRC, they are all symptoms of the same root cause of structural and widespread institutionalized gender imbalance and the low status of girls and women (Davis et al. 2014). The transformation of gender relations, within this context, has to include the participation of men as they are part of patriarchal social dynamics in South Kivu. Thus, this study focuses on adolescent young people, and it is justified by the realization that the process of becoming an adolescent, as experienced by them is, in most cases, characterized by the differentiation of

behaviors and controls that impinge differently on men. Adolescents provide a perspective on how gender norms are socialized and a sense of how early such socialization occurs. Additionally, adolescents are in the liminal position of not quite children or adults. They therefore provide perspective on adults' behaviors, including their parents' behaviors. They have important critiques of parenting norms, especially norms of fatherhood. The critiques by both boys and girls of fatherhood norms, in this study, provide a strong counter to norms of male custody of children as fathers often neglect their children after remarrying. Adolescents should be approached because they are old enough and able to chronicle events, including domestic violence that is pertinent in their lives. They are at the stage where they can verbally interpret how domestic violence has affected them, emotionally, mentally, and physically. More importantly, they are at the stage where they have to make critical decisions about interpersonal relationships based on their socialization at home (Kubeka 2008).

In particular, since it is vital to examine women's rights perceptions and behavior among adolescent young people, on the one hand, involving men in projects on women's inequality and discrimination is significant and enables to reduce "problems brought by immoderate manhood and destructive concepts of masculinity" (Adomako and John 2007). The UNFPA similarly contends that work on reducing violence against women would benefit from the assistance and involvement of males since "men themselves are increasingly confronting notions of "masculinity" that restrain their humanity, and put themselves and their partners at risk" (2006: 5). The current study supports the above ideal in its search for understanding adolescents' perceptions of women's rights.

On the other hand, the focus on girls as victims was important in order for feminist researchers to draw attention to the extent of the problem (Clever 2002). Clever (2002) argues that a focus on men and masculinities will draw attention from women's inequalities, and that by focusing on men, their dominance will increase, and edifices of gender inequality will be maintained. Similarly, taking into account such an aspect, Boonzaier (2008) maintains that focusing only on victims' experiences can unwittingly divert attention away from men—who are the most recurrent perpetrators of violence against women. This one-sided focus influences the literature on the descriptions of both women and men to be not well elaborated. Baker and Peter (2003) contend that focusing only on women is counter-productive in level of gender violence significantly requires male behavior change. Our understanding of the problem in the current study would profit by according attention to both partners in the relationships. The present paper therefore examines the experiences of both girls

and boys in relationships, and also investigates how each of the individuals constructs stories about women's rights in relation to the other partner.

Wyrod (2016: 49) argues that women's rights are now central to a wide range of campaigns, programs, policies, and interventions including those focused on securing women's access to land and business capital, and preventing domestic violence. Such efforts often turn on using a rights framework to change the gender power dynamics within intimate relationships, yet relatively little is known about how women's rights are dealt with in such relationships. This reveals quite interesting tensions around acceptable gender norms for men as fathers that perhaps adolescents are best suited to reveal, and it presses beyond conceptualizations of men as recalcitrant to change or as an individual problem (Dworkin et al. 2012a). A focus on women's rights reveals the conflicts, oppositions, and contradictions in relation to which aspects of rights are being emphasized (Wyrod 2008).

Social Norms Approach

The present study has employed the social norms approach as theories to reduce violence against women, and with a view to improve gender relations. The social norms approach presents a theory for understanding conduct and attitudes that have substantial implications for health promotion. The social norms theory maintains that our behavior is influenced by inappropriate perceptions of how other members of our social groups think and act (Berkowitz 2004; Elster 1989; Marcus and Caroline 2014). Social norms are encouraged through gendered power inequalities. The examination of power inequalities is important for the understanding of different groups' aptitude to challenge norms (Marcus and Caroline 2014). In fact, the social norms theory reduces the occurrence of harmful behaviors by correcting targets' misconstructions (Hagman et al. 2007; Schultz et al. 2016). Social norms theory can also improve the design and appropriate implementation of effective gender based violence reduction (Anderson 2000; Jones 1994; Kahneman and Dale 1986; Peter and Ho-Mou 1994; Scholly et al. 2005).

Culture and Human Rights

People are generally predisposed to act in culturally sanctioned ways, but they are to adjusting degrees of agents of change in the transformation of their own culture. The speed of sustainability of change in particular ways tends to vary to the degree of stability in the circumstances of conditions of the society, and

ability and willingness of social actors to engage in deliberate strategies of cultural transformation (An-Na'im 2002). Culture, as representing the personality of a society, constitutes the interplay between human relations and gender boundaries. It is a formulation of historical phenomena defined in place and time, in which experience and expression is deeply gendered (Maoulidi 2011). In fact, "culture" refers to the assumptions, meanings, ideas, and practices that shape and are shaped by people's everyday interactions. Besides, it is instead a dynamic, historical, conflicting part of all of our lives, and institutions. As such, cultural ideas and practices can be a source of strength as well as of oppression, depending on the context and conditions (Hodgson 2011). Despite cultural legitimacy, there are cultural practices that are harmful and that do promote violence against women and girls. Out of her discussion on the dynamics of culture, Merry concludes that, inevitably, diminishing violence against women requires cultural transformation (Merry 2006). The notion of cultural transformation incorporates the whole process as an indigenous expression of people's right to self-determination. Such an understanding of cultural change is crucial for the theoretical validity and practical application of human rights norms in all societies throughout the world (An-Na'im 2002). From this perspective, Merry revisits central components of the "human rights cultural wars" debate: Culture is fluid, despite efforts of some cultural advocates to maintain adherence to static tradition ubiquitously referred to as the "customs of the ancestors." She pertinently contends that there needs to be a conceptual clarification of culture in human rights practice that foregrounds the importance of translators to the human rights process and the possibilities for change in local cultural practices (Merry 2006).

In recent years, there has been a move to surpass the difficult contradictions of rights versus culture and an emphasis instead on how global human rights discourse acquires meaning in local contexts (Wyrod 2016: 48). Merry has provided critical insights in this regard, and argued for the need to examine how local actors are "remaking human rights in vernacular" (Merry 2006). Vernacularization mixes both appropriation and customization of right discourses, and engages translating "globally produced ideas into a number of specific social settings in ways that are often indirect, disjointed, and diffuse" (Levitt and Engle 2011: 88). According to Levitt and Engle (2011), vernacularization is the process through which individuals and institutions embrace and customize human rights discourses in ways that make sense in their own cultural space. Levitt and Engle assert that differences between how gender and justice are understood in human right discourses and in local realities are handled by processes of negotiation and

translation, rather than confrontation and conflict: “New ideas are consistently adopted where there are areas of fit, resonance with pre-existing ideas of justice and order, but they are also used to increase the boundaries of issues or develop new practices of intervention.” We have examined law and practice and now turn to investigating the attitudes of group of high school students. Our thought is that if young people have different attitudes to the current practice, then there may be possibilities for change in this respect of benefit to women.

Method

The Geographic Context

The fieldwork was carried out in four secondary schools which are located in Bukavu and Kavumu. Bukavu, the capital of South Kivu province, is overcrowded with people who have moved from elsewhere seeking greater security. As of 2012 its population was about 806,940. Kavumu is a rural area located some 50 km to the north of Bukavu. Given the widespread destruction and deterioration of basic infrastructure throughout the province, people in Kavumu have difficulty of accessing basic social services such as education, sanitary drinking water, and primary health care. Such services are somewhat better in towns, but are limited in both quantity and quality. Most of Kavumu’s houses are built with flat timber and others with mud and timber.

In terms of sampling, the four schools were chosen for reasons of convenience but are broadly typical of high schools in the province. The 56 participants (the number was chosen to allow two focus groups of seven, one of boys and one of girls, at each school) comprised about a quarter of students at the schools in their final 2 years of study, and were aged between 16 and 20 years. The Grade 11 and 12 male and female students who participated in the study as representative of the group of students in these schools were selected by the school’s principal and one teacher. All participants were volunteers.

Data Collection

A qualitative research methodology was employed to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women’s rights to inherit property and to take the custody of children in the event of divorce. Focus groups and individual interviews were conducted with boys and girls separately with matched gender facilitators. The researcher conducted focus groups and individual

interviews among male participants while a female teacher moderated female single-sex focus groups and individual interviews. The researcher also transcribed the verbatim audios data from the tape recorder from Swahili to English for later analysis.

In fact, eight focus groups were conducted with South Kivu young men and women. These sessions were conducted in Swahili, the language spoken by participants, and lasted between 90 and 120 minutes. Five participants from each group were invited to voluntarily participate in individual interviews lasted about 60 minutes. These individual interviews were conducted with 40 volunteers (20 boys and 20 girls) from the 56 focus-group participants. The interviews took place during the 2 weeks that followed each focus group. The following specific questions have been asked for further exploration: Do girls have right to inherit their fathers' property? If yes/no explain. What do you think of such a practice? Does your sister have right to inherit along with you? Explain your response. Do women have right to child custody after the divorce? If yes/no explain. What do you think of such a practice? In case of your parents' separation who among your parent would like to live with? Explain your response.

Data Analysis

Data from focus groups and individual interviews was analyzed by using thematic analysis to identify emerged themes. This method faces the risk that a researcher may deliberately or unintentionally inject her/his own biases into the results and reach inaccurate conclusions; that is, it may fail in terms of internal validity. Careful action was taken to prevent this from happening by having two people to carry out the focus groups and interviews, and two other people to help with the recording and scribing. We extensively read the entire data in search of meanings and patterns, wrote down ideas and codes during the analysis process. During the coding process, we retain the individual extracts of data and the dominant stories as part of our coding (Braun and Clarke 2006). Vicsek (2007) recommends in thematic analysis to often present not only isolated manifestations but also a section of discussion containing several contributions. We also paid considerable attention to the relationship between codes, between themes, and between different themes. We reviewed, defined, and named themes before producing our last report. In the process of preparing the article, we had a number of discussions concerning the codes that emerged under each theme. The themes we identified arose largely from the questions asked during the focus groups and individual interviews, which, in turn, arose from our research objectives. There were strong similarities in views expressed in the

focus groups and interviews to the extent that slight contradictions were only observed in individual interviews where some participants disagreed with the dominant views. The views expressed during focus groups and individual interviews were very similar among both rural and urban participants, but both genders diverged on the issue of inheritance. This study gives an account of the participants' comments in their own words and the quotations presented are, unless otherwise noted, representative of the opinions expressed by the majority of participants.

Ethical Considerations

The nature of the research was explained to learners and it was made clear that their contribution was entirely voluntary; in the event, there were no refusals and participants were very engaged during the focus groups and interviews. Parental permission was obtained for participants under the age of 18 as participants under this age needed their parental consent before participating. Informed consent was obtained from all individual participants included in the study. Confidentiality and anonymity were strictly respected in both our research approach and the execution of the study. Participants were assured that their identities will be protected. This reflected in the study's naming system for reporting purposes, where each participant chose a pseudonym.

Results

The goal of the current study was to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women's rights to inherit property and to take the custody of children in the event of divorce. The focus group and individual interview transcripts reveal several following themes across the sample of participants: she will marry therefore she should not inherit, the demand for a son, customary law strongly hinders daughters' inheritance rights, women should not secure the child custody right, bride price entitles men the child custody right, and neglect of children after remarrying.

Inheriting Property

“She Will Marry Therefore she Should not Inherit”&&

The position that son and daughter take in the lineage after marriage often influence their right of inheritance. Daughters are

viewed as temporary residents in their own families which results in parents to deny them the right to inherit.

A boy can inherit it even if his sister is the first born in the family, why it must be done that way? Because the girl temporarily stays in the family, and tomorrow she gets married. When she gives birth, her children do not belong to her father's clan but to her husband's clan. Do you imagine now? If she inherits her father's property, it is the husband and her children who benefit it. That is why in case of inheritance parents should first consider boys. (Joseph, 19, rural boy)

A girl only temporarily lives in her father's home; a man can marry her at any time... Imagine now if she inherits the property, no! It is absurd; she should leave the boy to inherit. (Bahati, 18, urban boy)

Most male participants view their sisters as temporary residents because the girl will leave her place and live for the rest of her life with her husband. Therefore, they strongly disapprove the idea of considering her as heir. They fail to embrace women's rights, and therefore describe resistance and contestation about women's inheritance rights. For Bashi as patrilineal society, girls do not belong to their fathers' clan while boys still belong to it even after they marry. Culturally, a female child does not perpetuate her father's family lineage. Her children belong to her husband's clan. Since they marry and go to live with their husband's family, women are not viewed as having affiliation in their lineage. Hence, boys are entitled to inherit properties as they do not lose their position although they marry. So, it is insignificant for granting a girl her father's property. The girl's inheritance right denial is also reinforced by the community's widespread belief stipulating that her inheritance prerogative may benefit her husband and her children who do not belong to her father's clan.

Despite the dominant views, during the individual interviews, few female male participants remarks as following:

According to our culture, a girl cannot inherit her father's property, but it is true that she has got the right. We know that the current constitution allows girls to inherit; she is now in the position to do it. (Clever, 17, rural boy)

Some male participants acknowledge female child's right to inherit properties. In fact, a few male participants are unaware of the protection offered by the constitution and the *Code de la Famille* for both girls and boys to inherit in irrespective of their gender. Even though a boy is aware of the girl's inheritance right, traditional norms, and customary law still affect his belief and

practice. Such a discriminatory belief is reinforced by the customary law although the Congolese legislations guarantee both boy and girl to inherit property.

The Demand for a Son

Parents who have only female children are more likely to have additional children with aim to get the son. These revealed preferences for sons versus daughters for inheritance purpose:

I have twice attended traditional ceremony of inheritance where a father has died and did not have a male child. Such a situation compels his family members to investigate in order to find out whether during his lifetime he had a boy out of wedlock. In case they find one, this is the one who is going to inherit. I wondered why a woman has no right to inherit; I have never got the answer. (Iste, 18, rural boy)

... Married men cannot nowadays wish to die before engendering a male child. Although his wife may give birth to five daughters if she has never bore him a boy, he must marry another woman or goes out to seek whether he will get a male child who will inherit his estate. (Leopald, 20, rural boy)

Most male participants indicate that men and their family members often demand for a boy child who is perceived as heir regardless of whether he is born out of wedlock. Consequently, in his absence, the husband often perceives his wife as responsible for this failure. Traditionally, male children receive special attention from parents than their sisters. Such a situation does not only generate conflict and misunderstanding in the household but also causes daughters to feel neglected and abused.

Male participants also perceive that a female child is unequal to her counterpart male child particularly in relation to inheritance. They mention that when a man dies without having the male child, the daughter is not eligible to become the heir. In fact, the absence of the male child who is expected to perpetuate the family lineage may cause trouble in the household on the point of causing the husband to cheat. Traditionally, the couple that does not have the male child is perceived as childless. In fact, during the deceased father's closing mourning ceremony, the ceremony of inheritance takes place at dawn in which elders invite the first-born son and the last-born son to sit on the mat. Elders give the first-born son the arrow, and put the suit of the deceased father on him, and officially proclaim that he has become the heir. That means his male relatives and unmarried sisters become his dependant. For the Bashi, the father often entrust his property and estate to the first male born child who is regarded as the heir.

He is also viewed as guardian of his brothers and unmarried sisters, and would manage the deceased father's property and estate. His relatives—brothers and sisters—often complain about his mismanagement. On the other hand, the mate remains empty in case the couple does not have the male child even though there are female children because the daughter does not perpetuate her family lineage.

Female participants strongly condemn such a discriminatory practice that denies the female child the right to inherit her father's property. They provide their perspectives on this issue in the focus group as following:

We [girls] have got one hundred percent right to inherit estate. Why am I saying this? For instance my father dies, and I am the only child in my family. Who is now going to inherit it? They should not give it [inheritance] to my uncle's child, because my uncle works for his children. I am the only one who must inherit it. (Ariane, 20, urban girl)

They emphasize that there is no need to deny a female child the right to inherit; she has equal rights as her counterpart male. In fact, women's inheritance denial right is a critical social issue that increases women's health and well-being vulnerabilities. Female participants also denounce the practice of providing their inheritance to the paternal uncle's child to manage the deceased father's wealth as the culture perceives that the deceased father's name remains pending in air in case he had no male child. For the Bashi, land or property normally passes through the male line either horizontally or vertically. The sons and brothers of a deceased man can inherit his land and pass it on to male descendants or male relatives.

Although the daughter may inherit property, her brothers rely on traditional mechanism to deny her rights. During the individual interviews, some female participants denounce such an injustice as following:

There is a problem here, for instance a father can leave his property to his daughter but when he dies her brother repossesses it. He meets elders who allow him to control everything. Men [brothers] often tell us that we have nothing to expect from the family because we will get our portion in our households. This is the problem that we have in our community. (Mironyi, 18, rural girl)

Girls and boys should have same rights... If the father dies and has one daughter, her brothers should not take away her inheritance right. Even if she is a girl, she is also a child [born from same parents] like her brothers. (Gloria, 19, urban girl)

Female participants contest the way in which boys and elders conspire to misappropriate girls' right as they believe girls are ineligible to inherit. Some interfamily land or property disputes are consistently solved by elders of the family lineage. Boys believe their sisters will receive their part of inheritance in their household when they marry. She is expected to inherit along with her children her husband's property. On the other hand, the issue of daughters' inheritance denial right is predominant in the society. Therefore some girls, overwhelmed by the cultural beliefs, perceived the inheritance as a favor that should be only given to the girl in the absence of the male child:

I would like to say that a girl has no right to inherit properties if there is a boy in the family. Even if she is 25 years old and her brother is 1 year old, her brother has the right to inherit than her. Maybe she can inherit if she is the only child and there is no boy in the family. (Olga, 17, urban girl)

Female participants endorsed statements supporting girls' inheritance right denial. They apparently justify and support social systems that harm them or their group. For most female participants, their supportive attitudes may either derive from ideologies and beliefs that rationalize inequality and contestation of women's rights.

Customary Law Strongly Hinders Daughters' Inheritance Rights

The customary law further reinforces women's inequality. The following focus group interaction among urban female participants shows cultural challenges they face with regard to inheritance:

Some people say that a girl cannot inherit, why that? They say that she will get married and go to her husband's home. Other people say that a girl has no right to study if she studies, her studies will only benefit her husband. Our cultures bring uncommon things. (Jessica, 18, urban girl)

Our constitution emphasizes that a girl has got right to inherit her father's properties. But the only thing that hinders us [girls] nowadays is the culture. You find in some cultures, it is said that a girl cannot inherit her father's properties. (Grace, 19, urban girl)

These quotes clearly indicate that although some women are aware of their legal rights to inherit their fathers' properties, customary norms remain a hindrance for them to enjoy such a right. Besides, it is obvious that the customary law and patrilineal system

is an obstacle for women and girls to claim their rights. Customary laws and patriarchal norms do not only contradict the DRC constitution, but also deny their rights. In fact, this is a clear indication that few female participants are aware of their inheritance right enshrined in the constitution and *Code de la Famille*. The gap between the law contained in the constitution and the law in practice may also support the societal norms related to inheritance. In fact, the plural contradictory legislations obviously contribute to the contestation that South Kivu men manifest with regard to women's rights.

Additionally, girls are not only denied to inherit their fathers' properties but they are also discriminated in education. Female participants report that parents prefer to send a boy to school because a girl will marry. They also believe if a woman earns her degree, her parents will not profit from her education. These attitudes also hinder girls' abilities, and influence many parents to deny their daughters' education.

Discrimination of Girls at Home and School

Based on the patrilineal and cultural beliefs, parents' discrimination against their daughters quite reinforces the victimization of women in their proper family and at school:

Girls are abused at school and home. Young boys, who are supported by teachers, like to humiliate them [girls]. Even mothers who are supposed to support you [girl], they support boys and value them more than us [girls]. Young teachers also tell you things that hurt you, but when you complain to your parents they do nothing. (Mironyi, 18, rural girl)

A woman may give birth to baby girls and one boy even if this boy is the last-born child; parents often mention in the presence of their daughters that 'he is your father and the only heir in this house.' They [parents] really undervalue the girls' right to inherit. (Neema, 18, urban girl)

These responses imply that girls psychologically suffer from the injustice and discrimination that they experience from their parents, teachers, and boys. Female participants maintain that boys are more considered than girls in the family. Parents often praise their sons, and underestimate their daughters. Whenever the conflict occurs between girls and boys whether at home or at school, they get unfair judgment from parents, and also experience same situation at school where young teachers are supportive to boys whenever they are in conflict with them. Such behavior psychologically coerces girls to believe that they are inferior to men, and have nothing to offer the community. One of the

female participants summarizes the whole experience that girls go through as the following: “*It psychologically affects our health and minds, but people do not know it.*” (Kindja, 17, rural girl).

Custody of Children

Women Should Not Secure the Child Custody Right

Females not only suffer discrimination with regard to inheriting their father’s property but are also denied the child custody right when she divorces her husband.

A woman has no right to keep her children after the divorce because she did not bring children when she entered the relationship. She only got them [children] in her household. That is why; she must leave them to her husband. (Jadu, 19, urban boys)

Although the right to child custody is granted to both husband and wife by the constitution and the *Code de la Famille*, male participants still deny women this right simply because the customary law solely grants it to the husband. The most common explanation male participants gave is that a woman cannot claim such a right because she did not have children the moment she entered the relationship. Men in South Kivu often entitle themselves the right of child ownership based on bride price payment. It is worth mentioning that most participants, in this study, belong to the Bashi cultural group which is a patrilineal society based on the kinship with the male line of ancestors.

The couple prefer to share properties rather than accept a woman to secure the custody of her children:

I think that in case of divorce, a woman should get a small part of the wealth they gathered together with her husband but children have to remain in his custody. (Baraka, 17, urban boy)
 ... When husband and wife divorce, they have to share properties. Unfortunately, Children bear their father’s surname. That means in case of divorce, they should not divide them. They must remain in their father’s custody. (Iste, 18, rural boy)

Ironically, male participants are ready to share properties with their wives but they are still reluctant to share inheritance with their sisters. When it comes to the child custody they claim to be the sole holders of this right. They believe men are entitled to keep children because they bear their surnames. A child bears his father’s surname at birth while the wife in the Congo often keeps her maiden surname when she enters marriage.

During the individual interviews, despite the dominant discourse, some male participants remarks as following:

The Bashi tradition which is our culture emphasizes that children belong to the husband. However, we know that he alone cannot give birth without the contribution of a woman. Our culture really exaggerates in this case, they should divide everything. (Clever, 17, rural boy)

Some male participants disapproved of such a culture which does not recognize women's rights. They assert that both women and men contribute to engender a child. Therefore, they should equally divide properties and children. Such a moderate view clearly demonstrates that some men are supportive of women's welfare.

Too often, the culture grants husbands the sole custody of children. Some female participants, during focus groups, illustrate it as follows:

In some cultures, children belong to the wife while in others they belong to husband. I do not care what is done in other cultures if it is one child, they should send him to his father's family [everybody laughs]. (Olive, 19, rural girl)

Female participants blindly endorse the inequality perpetuated against them. They state that children belong to husbands, and believe the culture has the absolute right to decide who has to keep children. In fact, these attitudes are entrenched and constructed through culture.

Bride Price Entitles Men the Child Custody Right

Much of the attitude that entitles men the right to custody of children also relates to bride price:

I think children belong to the husband. We have got a problem here because we imitate other cultures, and completely reject our culture. Parents should not divide children, this cannot be done. It is well known that once a man has paid the bride price, children belong to him. We often notice if a man lives with a woman, and did not pay the bride price to her wife's family when they divorce, the wife brings her children in her family. The husband can at any time pay the bride price, and get them back. (Joseph, 19, rural boy)

In general, male participants perceive the bride price as an entitlement or reason for the husband to keep children.

According to the Bashi tradition, a man has to pay the bride price to his wife’s family before marrying her. Two cows are general provided for the bride price. The increase depends on the bride’s education and her family social class. Bride price is not refunded after divorce. In other cases, if a man lives with a woman, and had not paid the bride price, he has no right to claim the custody of children. The customary law cannot favor him in this case. Among the Bashi, bride price is seen as the most important determinant of marriage. The marriage is not actually recognized if the bride price is not paid. This does not only jeopardize the future of the children but also conflict them in regard to guardianship.

Neglect of Children After Remarrying

By the Father

It is not a nice culture because after divorce if the husband keeps children, he is going to remarry and reject children who are born from his first wife. He starts paying more attention to his second wife’s children. (Derrick, 19, urban boy)

Some male participants disapproved of the practice of granting husbands the child custody because they often remarry and reject the children that they had with their first wives. As a result, many wives may remain in abusive relationships to avoid the negligence their children may face, and may also do it because they are afraid of losing their children once they get out of the relationship.

Male participants perceive men as authoritarian and strict in their parenting style:

In case of divorce, children should live with one of the parents but for us Bashi we think that it is the father who has got the right to keep them [children]. I believe he is in good position to educate them as the child is more respectful and afraid of his father than his mother. (Nshokano, 17, urban boy)

Although male participants preferred the sole child custody rights to be granted to the fathers, children are often more afraid of them than their mothers; fathers communicate less with their children. Male participants misunderstand the best effective parenting style. They claim that most parents exert control over their children through excessive power and coercion. Fathers are very strict and only rebuke or talk to their child when he/she is wrong. Consequently, children may develop fear of their fathers; as a result they obey their fathers because they are afraid of them. Yet,

their presence in the family is crucial for the education of children.

Moreover, these attitudes illustrate the father's irresponsibility and carelessness entrenched in the traditional cultural beliefs and practices which impinge on the development of healthy relationships between parents and their children. Several girls echoed male participants' statements of poor relationship between fathers and children:

My father may show that he is caring about me when he is still living with my mom. He especially stops caring about me when he remarries. (Jemima, 18, urban girl)

A woman should keep her children because it is a woman who takes care of children. Especially in our homeland, there is no good relationship between a father and his daughter. We [girls] have never seen our fathers calling you for example 'Neema I would like to tell you something. You do not have time to sit with your father, but you [girl] disclose your secrets to your mum.' If a girl now lives with her dad, she does not have someone to disclose to. Then, she is obliged to disclose her secrets to her girlfriend or another woman who can deceive her. (Neema, 18, urban girl)

These quotes suggest that men do not cultivate close relationships with their daughters; therefore, children have difficulty approaching them. For female participants, children have often no one in the family to run to for advice or to warn them about danger they may encounter during their adolescence. Culturally, it is taboo for a father to sit and discuss with his daughter issues concerning sex or her private life. Children do not feel free to disclose their worries and experiences to their parents, especially their father, and may sometimes prefer disclosing these to their mothers, friends and neighbors. The father as patriarch is revealed in most of participants' views.

In sum, both male and female participants claim that customary law in child custody as well as in inheritance impedes women's rights. Consequently, children particularly suffer when customary law grants husbands such right.

Discussion and Conclusion

The current study sought to examine, using the attitudes of high school male and female students, the possibilities for change in current practices concerning women's rights to inherit property and to take the custody of children in the event of divorce. Actually, the article 14 of the constitution of the DRC recommends that

public authorities reinforce the elimination of all forms of discrimination against women, and ensure the protection and promotion of their rights. It is worth mentioning that the constitution does not discuss inheritance and child custody terminologies. On the contrary, it generally refers to women's rights notably in relation to civil, political, economic, social, and cultural areas. However, these rights are more clearly discussed in the article 758 of the *Code de la famille* (Family Code) which stipulates that the surviving spouse, father and mother, brothers and sisters or consanguineous or uterine form the second category of heirs of the succession (Code de la Famille 1999). Article 457 of the *Code de la Famille* also discusses the issue of custody of children. This stipulates that in case of divorce, the child custody is entrusted to one of the spouses or to a person of their choice.

Women's inheritance rights remains an issue. If we consider the perspectives of male and female participants about the daughter's inheritance right, several reasons emerge. First, male participants' opposition to girls' inheritance rights was based on cultural beliefs stipulating that girls do not belong to their fathers' clan while boys still belong to it even after they marry. Hence, boys are entitled to inherit properties as they do not lose their clan membership. In fact, some participants perceived that a female child does not have the same value as a male child because a female does not perpetuate the family lineage. Both male and female participants also reported that although a couple may have daughters, fathers and their family members do not consider them as children. They only consider sons as children. Thus, the obligation for the husband's family members to often demand for a boy child who is perceived as heir regardless of whether he is born out of wedlock. Although males inherit estate, the practice is biased by providing the whole responsibility to the first born son who hinders his brothers and sisters' inheritance rights. However, a few male participants acknowledged female children's right to inherit property. Wengi's (2015) Ugandan study finds that the position of heir is restricted to sons of the deceased with the priority being given to the eldest. The choice of a daughter as heir is consequently a deviation from the norm. Studies conducted in Kenya and Uganda also find that succession to property was through the male lineage. The reason for the male inheriting property was the fact that men remained in the family unlike women who, when married, left their parental homes and joined their husbands' families. The desire to keep family wealth within the community dictated that it be held by the man (Henrysson and Fullerton 2009; Kameri-Mbote 2002). This is further supported by Dahl and Moretti's (2004, 2008) study conducted in the United States which finds that happy marriages are unlikely to

result in a divorce only because the birth of a daughter. Parents prefer sons over daughters. Macia et al. (2011), in their study of sexually active men and women in Mozambique, find that the importance of preserving one's lineage from being forgotten is a task generally assumed to be a man's responsibility in patrilineal societies. Women bear the role of conceiving men's children, male children in particular. Joireman (2008), in her study in Sub-Saharan Africa, maintains that females do not inherit land because they are not accepted as having independent affiliation in a particular group, and therefore have only the right to cultivate land owned by the group. Since they marry and go to live with their husband's family, women are viewed as not belonging to their fathers' lineage, and in some ethnic communities they are perceived as members of their husbands' lineage. Ewelukwa (2002), in her study conducted in Nigeria, finds that the sudden appearance of someone claiming to be the son of a deceased husband often causes trouble to a widow and her children, as such a child can deprive a widow of any possessive interest she may have in a husband's property. In some cases, the rights of such a person triumph over those of the legitimate children of the deceased—for instance, where the latter are all female children and the illegitimate child is male.

Second, male participants believed that the girl will marry and leave her family; therefore, she should not inherit her father's property. They expect her to inherit her husband property together with her children. There is fear if they let her inherit, her inheritance may benefit her husband and children who do not belong to her father's lineage. This is consistent with Syn and Paluku's (2015) study in three provinces of the DRC which confirms that under the customary rules in the sites visited, female children did not inherit land from their parents. The most common explanation given was that girls would marry and have land from their husbands, although this reasoning ignores the reality that women do not have land from either their fathers or husbands. Syn and Paluku maintain that male participants in North Kivu perceived girls as "a complete person" when they get married. The girls obtain an identity in their husband's family. In reality, women are restricted to a submissive role in DRC's customary land systems. Women can only access land through the men in their lives, but are denied the right to possess or make any claim to land beyond what her father, brother, or husband allowed her to use. In many Congolese tribes, female children are still seen as less valuable than their brothers, and a wife has no ability to counter the decisions of her husband.

Moreover, male participants were reluctant to allow their sisters to inherit the family land and property, but the majority of

them supported married women's rights to inherit their husbands' property and land. They accept the idea of their sisters inheriting property from their husbands' side because this does not disturb them. In fact, the truth is that married women hardly inherit property and land. It becomes more complicated particularly for those widows/women who have no child or only have daughters. Actually, widows are often inherited by the deceased husband's brother who marries her as a strategy to access the deceased property and estate. The widow inheritance is a widespread practice in South Kivu. Such a practice is viewed as a managing strategy, and an opportunity for property dispossession since her estate should be jointly managed with a male heir. A study conducted in Uganda also finds that this practice operates as the way of getting control over the deceased's estate by the person inheriting the widow. Some widows succumb to ensure their survival and their children's continued access to the deceased's estate (Wengi 2015). A study conducted in North Kivu also corroborates that divorced women face even worse conditions. Women in Kitchanga (North Kivu) reported that in cases of divorce, culture dictates that men keep the house and land, and the women must leave regardless of reason or fault. Customary leaders and male participants mentioned that women were not allowed to keep land from a marriage because then she would be taking land away from the children. Although this rationale appears to be about keeping land in the patrilineal line, the term “children” was referring only to male children (Syn and Paluku 2015). Izumi's (2007) study conducted in Zimbabwe, Zambia, Uganda, and Kenya confirms that widows who do not have sons they are more exposed to eviction and dispossession, compared with those who do have male children. Rebouché (2006), in her study in Kenya, finds that women are denied rights to land and property after divorce and death of their husbands.

Both male and female participants endorsed the inequality perpetuated against female child in terms of inheritance. Their views were dictated and based on cultural beliefs that support and deny such a right to the female child. For most female participants, their supportive attitudes may either result from beliefs that rationalize inequality, and from the contradiction of legal pluralism that enshrines their rights. It is undoubtedly the case that most girls must require more knowledge of their inheritance rights. Increased knowledge of the law can help them claim their rights. This may actually explain their reluctance to claim women's rights. Such a discriminatory practice is clearly enforced by the *Code de la Famille* (1999) which states that property acquired by the wife in the exercise of her profession, separated from that of her husband and resulting from her savings, constitutes assets

that she manages and administers. If the management and administration of such property affects the harmony and the financial interests of the household, the husband can solely manage it. Some dispositions of the *Code de la Famille* clearly hinder women's freedom, and reinforce the discrimination toward them. Additionally, some female participants, in the current study, found the restriction that contains in the customary law and patrilineal attitudes as a hindrance for women and girls to claim their inheritance's rights although the Family Code grants them such a right. Different studies discuss the above contradiction, FAO (2010) indicate that one of the greatest challenges regarding women's access to land undoubtedly lies in the legislation and the legal frameworks—both customary and modern—that validate women's rights in general and, specifically, their land rights. It is recognized that land rights are regulated by legal provisions and laws that are many times contradictory. This legal pluralism creates discrepancies between constitutional, legislative and customary laws, which further complicate the issue of women's access to land. USAID (2010) and Women for Women International (2014) corroborate that certain aspects of customary law are included in written law, thus increasing gender inequality in land provisions. Giovarelli (2006) and Kafumbe (2010) find that even though Ugandan national law allows daughters and wives to inherit land, customary law makes it impossible to enforce the formal law. Daughters who leave their families to live with their husbands often inherit mobile property, but not land. Women often cannot inherit their husbands' land, as it is passed through the male lineage, or because it belongs to the husband's family or tribe. Several studies in Kenya find that although Law of Succession Act allows daughters—and women in general—to inherit property, daughters do not traditionally inherit land from their fathers (Henrysson and Fullerton 2009; Kameri-Mbote 2002; Rebouché 2006). Similarly, in Hindu law, as well as in the law of other religious communities, succession and property rights discriminate against women and reflect the assumptions of a patrilineal/patrilocal family system (Merry 2006). However, a study conducted in Nigeria finds that in the court case of *Ukeje vs Ukeje* on inheritance and discrimination, the Igbo native law and custom disentitles a female child from inheriting her deceased father's estate, is void as it is in conflict with the provisions of Section 42 (2) of the 1999 Constitution of the Federal Republic of Nigeria (Nnadil 2013).

Although laws in the DRC grant both husband and wife custody of children, most male and female participants still believe that the husband solely has this right, but they are doubtful whether the fathers may keep healthy relationships with the

children especially after remarrying. Fathers have been reported to neglect their children after marrying another woman. In case of separation with the abusive husband, the customary laws still encourage the husband to keep children especially if he paid the bride price. This creates a situation where women have little possibility to leave the marriage no matter how painful or violent it may be. Traditionally, divorced Congolese women are often socially stigmatized that makes their lives very hard. Kent's (2007) study in Sierra Leone finds that under the country's customary law; young children have to stay with their mother until school-age, or about seven, but they are then given to the father and his family. If the father claims his parental rights, he is often granted custody of the children regardless of their age by the local leader who resolves the dispute. Giovarelli (2006) maintains that in Uganda the bride price is sometimes reimbursed if there are no children born of the marriage. If there are children, the husband usually keeps them. Raday (2003), in her study in Israel, finds that under most of the monotheistic religious instructions, women have no right to guardianship or custody of children. A study evaluating child custody in the United States since colonial days finds that judicial discretion often results in custody decisions denying women custody not because they are not responsible parents, but simply because they are women (Sack 1992: 292). Similarly, Tanzanian statutory law does not give a mother an automatic right to guardianship of her children (Wengi 2015). Ewelukwa (2002) corroborates that Nigerian widows are in position to lose their children, particularly if they are male children.

Additionally, male and female participants perceived men as authoritarian and strict in their parenting style. Fathers do not build good and close relationships with their kids. Within the family, the father is regarded as possessing rigid and unchallenged power. Both boys and girls are uncomfortable and afraid of approaching him. This type of relationship is described in Sathiparsad's (2006) study conducted in South Africa which also finds that the father has a patriarchal power which entails great respect. Whenever children have got a need or problem, they are afraid to directly approach their father, and usually approach their mother.

Male participants perceived the bride price as an entitlement and reason for the father to secure child custody. This clearly shows how the bride price perpetuates the inequality against mothers with regard to custody of children especially when the couple refer to customary law for arbitration. However, the majority of female participants disapproved these gender discriminatory assumptions. Male participants also emphasized that the father's surname serves as entitlement for men to keep children

although the *Code de la Famille* (1999) stipulates that during the marriage, a married woman has the right to use her husband's name. She may join her husband's name to her. This law may also entertain confusion as the term "use" is not explicit. Furthermore, most married women ignore this law and do not change their surnames. This is also corroborated by a study conducted in Malawi which finds that if the bride price obligations have been complied with, children born of a married woman are affiliated with her husband. The issue of custody of the children upon the dissolution of marriage is also dependent on whether the bride price was paid or not (Mwambene 2012).

In conclusion, this article has demonstrated inequalities and discriminations that young women experiences in their own families and matrimonial homes. Women and daughters' rights to inherit property and secure custody of children are denied despite the guarantee inexplicitly enshrined in the constitution but exhaustively discussed in the *Code de la Famille*. In fact, these beliefs are both deeply constructed through dominant cultural patrilineal features of Bashi Traditions, and through the contradictory Congolese legislation that hinders women's freedom, and reinforces the discrimination toward girls and women. In South Kivu, both women's inheritance and child custody rights remain a challenge due to the customary law which makes these rights inapplicable. Boys have internalized gender inequality, but that is much less so for girls who critically assessed the gender status quo and drew on transnational women's rights discourse (often via the Congolese Constitution) to make their claims.

This study has revealed that women's rights discourse is present and certainly shapes the attitudes of the girls in the study. There was no difference in opinions from the participants living in urban and rural areas, but both genders diverged on the issue of inheritance. However, few boys have acknowledged female child's right to inherit properties. They were receptive to certain notions of women's rights and quite ambivalent about the gender status quo. They voiced ambivalence toward and critiques of women's rights related to inheritance. Actually, most participants' knowledge related to the constitution and other laws governing the country may seem inadequate. Attention to women's inheritance and child custody rights were strongly intertwined and associated with women's cultural marginalization. Although both issues are different, they are particularly similar when it comes to women's rights or gender inequalities and cultural prohibitions.

These findings raise several issues of interest to researchers and policy makers. Since parents and community members are involved in the issue of women's rights of inheriting property and securing the custody of children in South Kivu, these findings

stress the critical need for further research to identify information concerning their views on these issues. We also argue that to neglect the influence of customary law and culture in the issue of inheritance and child custody can increase inequality. Recognizing and understanding such beliefs can help fight against these inequalities.

For challenging the discrimination against women's inheritance and child custody in the DRC and particularly in South Kivu, it is important that laws are fully ratified, promulgated, and implemented. Laws should be translated into simple arrangements and local languages for everyone to understand them, and see the importance of gender equality. Employing an approach that is both legal and anthropological, Merry argues that international human rights law must be framed in local terms to be accepted and thus effective (Merry 2006). In fact, laws alone cannot eliminate the widespread mental and social attitudes that violate women's rights. Regular meeting of both men and women in communities through advocacy, awareness, discussion, information, and education should be established. Also, there is a need to seriously engage men as positive agents of change in their relationships and communities (Dworkin et al. 2012a, 2012b). However, re-educating men to respect and accept women's rights requires sustained inputs from government, civil society, NGOs, churches, and schools. Women's economic empowerment may also play an important role in decreasing inequality and discrimination against women. The establishment of support groups for women and girls who have experienced inheritance and child custody denial is vital. Examining local engagements with rights discourse, particularly women's rights discourse, requires remaining attentive to how rights are entwined with more general tensions in gender relations (Wyrod 2016: 52). The emphasis on the vernacularization of rights provides the necessary link between abstract notions of rights and context-specific ways rights are practiced in everyday social interactions (Merry 2006).

The government should remove and eradicate discriminatory legislation and practices that prevent women from inheriting and securing child custody. Some cultural beliefs need to be challenged and modified. Given all of this, we argue that there is a strong need to change cultural and social norms that support inequality and gender norms (World Health Organization 2009). Consistent with the findings of the current study, social norms theory hold promise as a prevention strategy for reducing discrimination. Social norms theory decreases problem behavior and increases prevalence of healthy behavior (Kroshus et al. 2015). Eliminating violence against women requires cultural transformation. Most societies draw a boundary between acceptable forms of

violence against women, defined as correction, and unacceptable forms, defined as abuse. The position of this boundary is a cultural construct that depends on relationships, contexts, and situations. Many societies accept violence as appropriate discipline for certain kind of behavior. People who cross this boundary and use excessive violence may face penalties from communities (Merry 2006). Better understanding of the inner working of the formation and transformation of cultural norms or practices can be achieved by examining the synergy of the context and process. The focus should be on how the context, and the terms of the interaction of actors and factors, influence transformation, whether in favor of, or opposition to, the domestic protection of human rights (An-Na'im 2002). The institutionalization and expansion of women's rights as human rights has been a success, providing an effective and potent way to challenge gender inequality, improve women's legal and political status, and protect women from acts of individual and collective violence (Agosin 2001; Hodgson 2002; Merry 2006; Peters and Andrea 1995).

The current study conducted in rural and urban areas involved a small number of participants which may not represent wider population's view or description, that is, it cannot be generalized. In fact, fathers and mothers were not included because the focus of the broader research project was on the attitudes and experiences of young people. We admit that their voices would have made the paper much stronger.

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Maroyi Mulumeoderhwa (Ph.D.) is a Postdoctoral Fellow at the Institute for Reconciliation and Social Justice. In 2012, he completed his Ph.D. at Conflict Resolution and Peace Studies in the University of KwaZulu-Natal. His current research interests include gender equality, gender based violence, building better gender relations, and young people attitudes and behavior in relation to sexual violence. He is the author of numerous articles on gender relations and gender based violence.